

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

(1) BRENDA TOMLINSON,)	
)	
Plaintiff,)	
v.)	Case No. <u>18-CV-174-KEW</u>
)	(formerly Choctaw County CJ-16-33)
(1) UNUM LIFE INSURANCE)	
COMPANY OF AMERICA, a Subsidiary)	
of the Unum Group, a Corporation)	
Authorized to do Business in the State of)	
Oklahoma,)	
)	
Defendant.)	

**DEFENDANT UNUM LIFE INSURANCE COMPANY OF AMERICA’S
NOTICE OF REMOVAL**

Defendant Unum Life Insurance Company of America (“Unum Life”), pursuant to 28 U.S.C. § 1332, 28 U.S.C. § 1446, and LCvR 81.2, submits this Notice of Removal and notifies this Court that it is removing the above-captioned action, currently pending in the District Court of Choctaw County, Oklahoma to the United States District Court for the Eastern District of Oklahoma.¹ In support of this Notice of Removal, Unum Life states as follows:

1. On July 21, 2016, Plaintiff filed her Petition in the District Court of Choctaw County, styled *Brenda Tomlinson v. Unum Life Insurance Company of America, a*

¹ No admission of fact, law or liability is intended by this Notice of Removal, and Defendant expressly reserves all defenses, affirmative defenses and motions otherwise available to them.

Subsidiary of the Unum Group, a Corporation Authorized to do Business in the State of Oklahoma, Case No. CJ-16-33. See Petition, attached as Exhibit 1.

2. On May 14, 2018, Unum Life received notice of the pendency of this action when the Choctaw County Court Clerk sent a copy of a court order, apparently striking a status conference set for May 9, 2018, to Unum Life through its service agent. See Exhibit 7.

3. Following receipt of the May 9, 2018 order, Unum Life obtained additional filings and information regarding the case through the Oklahoma State Courts Network.

4. Unum Life has not yet been served with the Petition and prior to May 14, 2018, had no notice or knowledge of this action.² As a result, the removal is timely.

5. Unum Life is removing this case to the U.S. District Court for the Eastern District of Oklahoma, which is the district and division embracing the place where the State Court Action was filed.

6. In accordance with 28 U.S.C. 1446(d), COLLC is providing prompt written notice of the original Notice of Removal to all adverse parties and the clerk of the District Court of Choctaw County, Oklahoma.

7. Removal is proper, and this Court has subject matter jurisdiction over this case pursuant 28 U.S.C. § 1332.

² Notably, the Summons issued in the state case was to Unum Group, who is not a party to this case, nor has any proof of service been filed with the state court. Exhibit 2. Additionally, Plaintiff's certificate of service on her Initial Disclosures provides a copy was mailed to Unum Group at its service agent's address. Exhibit 3. Neither Unum Group nor Unum Life received any notice of the pendency of this action until provided directly by the Choctaw County Court Clerk on May 14, 2018.

8. Plaintiff has alleged damages in excess of the statutory jurisdictional amount of \$75,000. *See* Petition, Exhibit 1, ¶¶ 14 & 17.

9. There is complete diversity between the parties, as Plaintiff is a resident of Pushmataha County and Unum Life is a foreign corporation incorporated in Delaware and with its principal place of business in Maine. *See* Petition, ¶¶ 2 & 3.

10. A true and correct copy of all process, pleadings and orders served on or by all Defendants are attached hereto. *See* Various Exhibits.

11. Pursuant to LCvR 81.2, a copy of the docket sheet in Case No. CJ-16-33 in the District Court of Choctaw County, State of Oklahoma, is attached hereto at Exhibit 8.

WHEREFORE, as the Court has jurisdiction over this action, Unum Life respectfully requests this Court assume jurisdiction over this action and enter such other and further orders as may be necessary to accomplish the requested removal and promote the ends of justice.

s/Matthew C. Kane

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on June 6, 2018, I served the attached document U.S. Mail, first-class, postage prepaid, on the following:

Maria Tasi Blakely
307 SW B
Antlers, OK 74523

s/Matthew C. Kane
MATTHEW C. KANE